

Sentence Review Division  
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SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,	)	Cause No. DC-12-077
	)	
Plaintiff,	)	Lake County District Court
	)	Montana Twentieth Judicial District
	)	
-vs-	)	<b>DECISION</b>
	)	
DAVID MARTINEZ,	)	
Defendant.	)	

By the time of revocation on this matter, Cause No. DC-12-077, the Defendant's sentence for Count I: Sexual Assault with Bodily Injury had been served. The revocation proceeding on July 3, 2019 addressed Count II: Partner or Family Member Assault for which the suspended sentence was revoked. The Defendant was sentenced to the Montana State Prison for five (5) years, with none of that time suspended, to run consecutively to the sentences imposed in Lake County Cause Nos. DC-09-106 and DC-09-112.

On November 8, 2019, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). The Defendant was present and represented by John Ferguson, Defense Counsel. The State was not represented.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 8<sup>th</sup> day of November, 2019.

DATED this 11<sup>th</sup> day of December, 2019.

SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



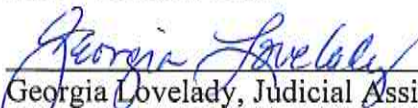
Hon. Dan Wilson, Member



Hon. Luke Berger, Member

Copies mailed this 13<sup>th</sup> day  
of December, 2019, to:

Clerk of District Court (Original)  
David Martinez #3003803, Defendant (2)  
Hon. James Manley  
John J. Ferguson  
Ferguson Law Office, PLLC  
P.O. Box 8359  
Missoula, MT 59807 Defense Counsel  
James A. Lapotka, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Judicial Assistant  
Sentence Review Division